



Office of the Secretary

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

December 23, 2013

Imperium, LLC  
Marshall C. Harrison, CEO  
164 Kings Highway North  
Westport, CT 06880

Re: Imperium, LLC Proposed Verifiable Parental Consent Method Application (FTC Matter No. P135419)

Dear Mr. Harrison:

This letter is to inform you that the Federal Trade Commission has reviewed Imperium, LLC's ("Imperium") application for approval of a proposed verifiable parental consent ("VPC") method under the Children's Online Privacy Protection Rule ("COPPA" or "the Rule").

The provision of COPPA allowing for Commission approval of unenumerated VPC methods provides a unique opportunity for the development of new verification methods that provide businesses more flexibility, while ensuring parents are providing consent for the collection of their children's information. The Commission has determined that knowledge-based authentication, when conducted as set forth in this letter, meets the criteria for approval set forth by the Rule.

Imperium submitted a proposed VPC method for approval on August 13, 2013. The Commission published the application in the Federal Register on September 12, 2013. The public comment period closed on November 4, 2013.<sup>1</sup> The Commission received five comments regarding Imperium's application.<sup>2</sup>

COPPA requires an applicant for Commission approval of a parental consent method that is not currently enumerated under Section 312.5(b) to provide: 1) a detailed description of the proposed parental consent method and 2) an analysis of how the method is reasonably calculated, in light of available technology, to ensure that the person providing consent is the child's parent.<sup>3</sup> Under COPPA, the Commission considers for approval a proposed verifiable parental consent *method*, which, if approved, can be used by the applicant or any other party. The Commission does not approve one party's specific implementation of a VPC method or a proprietary system

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<sup>1</sup> 78 Fed. Reg. 56183 (Sept. 12, 2013), available at <http://www.ftc.gov/policy/federal-register-notices/16-cfr-part-312-children%E2%80%99s-online-privacy-protection-rule-proposed>. In light of the lapse in federal appropriations that resulted in the temporary shutdown of the agency from October 1 until October 17, the Commission extended the 30-day public comment period for 16 days to November 4, 2013.

<sup>2</sup> The comments are available at <http://www.ftc.gov/policy/public-comments/initiative-497>.

<sup>3</sup> 16 C.F.R. §§ 312.12(a).

under the relevant provision of the Rule. Moreover, the Commission does not opine as to whether COPPA-related services that are not integral to the proposed VPC method satisfy the requirements of the Rule.

Imperium's application outlines its VPC system, ChildGuardOnline, which conducts identity verification in two different ways. The first method Imperium uses to conduct verifiable parental consent includes Social Security number verification, which is already an approved VPC method under the Rule.<sup>4</sup> Therefore, the Commission need not evaluate this aspect of Imperium's application.

If the Social Security number provided to Imperium cannot be verified, Imperium offers the individual an opportunity to be verified by answering challenge questions—an approach known as knowledge-based authentication (“KBA”). Imperium's application indicates its ChildGuardOnline service currently generates dynamic, “out-of-wallet,” multiple-choice questions. If the individual correctly answers such questions, the child is approved to use the site or service. The Rule currently does not include KBA as an enumerated method for verifiable parental consent.

After careful consideration of Imperium's application and the public comments,<sup>5</sup> the Commission has determined that KBA, when appropriately implemented, satisfies Section 312.5(b)(1) of the Rule. Specifically, evidence demonstrates that, like the other approved VPC methods, KBA can be “reasonably calculated, in light of available technology, to ensure that the person providing consent is the child's parent” as required by the Rule.

Imperium and two commenters correctly note that entities handling sensitive information, including financial institutions and credit bureaus, have used KBA to authenticate users for many years.<sup>6</sup> Moreover, government agencies such as the Federal Financial Institutions Examination Council (“FFIEC”)<sup>7</sup> and the Commission itself have recognized the efficacy of KBA using appropriate challenge questions.<sup>8</sup> Independent organizations such as the Organization for the

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<sup>4</sup> 16 C.F.R. § 312.5(b)(v); 78 Fed. Reg. 3972 at 3987 (Jan. 17, 2013).

<sup>5</sup> Two commenters, AssertID and the Center for Digital Democracy, object to the approval of Imperium's application. One commenter, PRIVO -- an approved COPPA Safe Harbor company -- supports approval of KBA as a method but indicates that the Commission should not approve a particular proprietary method. Two comments from individuals, Jose Guillermo Plumey of Management Results & Associates and Sharmon Sutin, express concern for children's privacy but do not specifically address Imperium's application.

<sup>6</sup> See Imperium Supplemental Response; Comment of Center for Digital Democracy at 8; and Comment of Privacy Vaults Online d/b/a PRIVO at 1, 6. In fact, a recent market research report indicates sizable percentages of financial institutions (30%), mobile payments businesses (40%), health care businesses (20%), and E-commerce businesses (21%) utilize KBA. See <http://www.decisionanalyticsblog.experian.com/blog/lloyd-laudorn/good-news-if-youre-thinking-about-using-knowledge-based-authentication>; see also <http://www.aitegroup.com/report/knowledge-based-authentication-use-and-trajectory-e-commerce-healthcare-and-financial> (Oct. 2012).

<sup>7</sup> The Federal Financial Institutions Examination Council's mission is to “prescribe uniform principles, standards, and report forms for the federal examination of financial institutions by the Board of Governors of the Federal Reserve System (FRB), the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Administration (NCUA), the Office of the Comptroller of the Currency (OCC), and the Consumer Financial Protection Bureau (CFPB), and to make recommendations to promote uniformity in the supervision of financial institutions.” See <http://www.ffiec.gov>.

<sup>8</sup> FFIEC, *Supplement to Authentication in an Internet Banking Environment* (June 2011) at 6-7, available at <http://www.ffiec.gov/pdf/Auth-ITS-Final%206-22-11%20%28FFIEC%20Formatted%29.pdf>; Federal Trade

Advancement of Structured Information Standards (“OASIS”) agree.<sup>9</sup> Evidence shows that incorporating certain techniques into the implementation of KBA—such as using multiple and dynamic questions and ensuring the answers are not reasonably knowable by someone other than the individual to be authenticated (in this case, by the child)—improves the efficacy of the method.<sup>10</sup> In short, identity verification via KBA using these techniques is well-established and has been adequately utilized and refined in the marketplace to demonstrate that it is sufficiently reliable to verify that individuals are parents authorized to consent to the collection of children’s personal information.<sup>11</sup>

Therefore, the Commission approves, for inclusion as a VPC method in COPPA, the use of KBA, provided it is appropriately implemented based on factors including: 1) the use of dynamic, multiple-choice questions, where there are a reasonable number of questions with an adequate number of possible answers such that the probability of correctly guessing the answers is low; and 2) the use of questions of sufficient difficulty that a child age 12 or under in the parent’s household could not reasonably ascertain the answers.

By direction of the Commission.

April J. Tabor  
Acting Secretary

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Commission, *Security in Numbers—SSNs and ID Theft* (Dec. 2008), at 7, available at <http://www.ftc.gov/os/2008/12/P075414ssnreport.pdf>.

<sup>9</sup> OASIS, *Analysis of Methods of Trust Elevation* Version 1.0 (committee approved) (April 2013), *OASIS Electronic Identity Credential Trust Elevation Methods*, available at [https://www.oasis-open.org/committees/document.php?document\\_id=48768&wg\\_abbrev=trust-el](https://www.oasis-open.org/committees/document.php?document_id=48768&wg_abbrev=trust-el). OASIS is “a non-profit consortium that drives the development, convergence and adoption of open standards for the global information society. OASIS promotes industry consensus and produces worldwide standards for security, Cloud computing, SOA, Web services, the Smart Grid, electronic publishing, emergency management, and other areas...OASIS members broadly represent the marketplace of public and private sector technology leaders, users and influencers.” See <https://www.oasis-open.org/org>; see also <https://www.oasis-open.org/committees/trust-el/charter.php> (re: working group).

<sup>10</sup> See nn.7-9.

<sup>11</sup> For the reasons described in this letter, the Commission is not persuaded by commenters who express concern that KBA is insufficient to ensure the person providing consent is the child’s parent.